



FEDERAL TRADE COMMISSION
Agency Information Collection Activities;
Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the current Paperwork Reduction Act (PRA) clearance for information collection requirements contained in the FTC's Consumer Product Warranty Rule (Warranty Rule or Rule). The current clearance expires on February 28, 2023.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Laura Basford, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2343.

SUPPLEMENTARY INFORMATION:

Title: Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions.

OMB Control Number: 3084-0111.

Type of Review: Extension of a currently approved collection.

Abstract: The Warranty Rule is one of three rules¹ that the FTC implemented pursuant to requirements of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq. (Warranty Act or Act).² The Warranty Rule specifies the information that must appear in a written warranty on a consumer product³ costing more than \$15. The Rule tracks Section 102(a) of the Warranty Act,⁴ specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used.⁵ Neither the Warranty Rule nor the Act requires that a manufacturer or retailer warrant a consumer product in writing, but if they choose to do so, the warranty must comply with the Rule.

Estimated Annual Hours Burden: 216,752 hours.

Estimated Annual Labor Cost Burden: \$29,652,215.

As required by Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Warranty Rule.

Burden Statement:

Total annual hours burden: 216,752 hours.

In its 2019 submission to OMB, the FTC estimated that the information collection burden of including the disclosures required by the Warranty Rule was 242,296 hours per year.

Although the Rule's information collection requirements have not changed, the current estimate

¹ The other two rules relate to the pre-sale availability of warranty terms and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

² 40 FR 60168 (Dec. 31, 1975).

³ The definition of *consumer product* excludes products purchased solely for commercial or industrial use. 16 CFR 701.1(b).

⁴ 15 U.S.C. 2302(a).

⁵ 40 FR 60168, 60169-60170.

decreases the number of manufacturers subject to the Rule based on recent Census data.⁶

Further, because most warrantors likely would continue to disclose the information required by the Rule, even if there were no statute or rule requiring them to do so, staff's estimates likely overstate the PRA-related burden attributable to the Rule. Moreover, the Warranty Rule has been in effect since 1976, and warrantors have long since modified their warranties to include the information the Rule requires.

Based on conversations with various warrantors' representatives over the years, staff has concluded that eight hours per year is a reasonable estimate of warrantors' PRA-related burden attributable to the Warranty Rule. This estimate includes the number of hours warrantors may need to ensure new warranties and any changes to existing warranties comply with the Rule. Based on recent Census data, staff now estimates that there are 27,094 manufacturers covered by the Rule.⁷ This results in an annual burden estimate of approximately 216,752 hours (27,094 manufacturers x 8 hours of burden per year).

Total annual labor costs: \$29,652,215.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The work required to comply with the Warranty Rule—ensuring that new warranties and changes to existing warranties comply with the Rule—requires a mix of legal analysis (50%), legal support (paralegals) (25%) and clerical help (25%). Staff estimates that half of the total burden hours (108,376 hours) requires legal analysis at an average hourly wage of \$250 for legal professionals,⁸ resulting in a labor cost of \$27,094,000. Assuming that 25% of

⁶ The Number of Firms and Establishments, Employment, and Annual Payroll by State, Industry, and Enterprise Employment Size: 2019, release date: 2/11/2022, *available at* <http://www.census.gov/programs-surveys/susb/technical-documentation/methodology.html>.

⁷ Because some manufacturers likely make products that are not priced above \$15 or not intended for household use – and thus would not be subject to the Rule – this figure is likely an overstatement.

⁸ Staff has derived an hourly wage rate for legal professionals based upon industry knowledge. The hourly wage rates for legal support workers and for clerical support are based on mean hourly wages *available at* <https://www.bls.gov/news.release/ocwage.htm> (“Occupational Employment and Wages–May 2021,” U.S. Department of Labor, released March 31, 2022, Table 1 (“National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2021”).

the total burden hours requires legal support at the average hourly wage of \$28.46, and that the remaining 25% requires clerical work at an average hourly wage of \$18.75; the resulting labor cost is approximately \$2,558,215 ($\$1,542,190 + \$1,016,025$). Thus, the total annual labor cost is approximately \$29,652,215 ($\$27,094,000$ for legal professionals + $\$1,542,190$ for legal support + $\$1,016,025$ for clerical workers).

Total capital and start-up costs

The Rule imposes no appreciable current capital or start-up costs that businesses do not already spend in the normal course of business. To comply with the Warranty Rule, warrantors need only the ordinary office equipment to draft new warranties and to change the wording of existing warranties to include the required disclosures. Thus, compliance requires no capital equipment or special technology apart from what the manufacturer or seller would already be using as part of the normal course of business, such as computer or other word processing equipment, and photocopying equipment. Similarly, distribution of the warranty does not impose any special capital costs apart from the packaging and printing equipment already in use by the business. It is not possible to state with any precision what fraction of the cost of that equipment could be attributed to distributing the warranty.

Total operation/maintenance/purchase of services costs

The only ongoing costs involved with compliance are those costs associated with maintenance and repair of computer word processing and photocopying equipment used to generate the warranty document that contains the required disclosures. These are costs that the seller or manufacturer already bears in the normal cost of business; it is unlikely that Warranty Rule compliance would impose significant incremental costs. Likewise, the cost of distributing warranty information involves such things as the purchase of supplies (such as paper), the maintenance of equipment, or the purchase of services to print, package, and distribute the warranty. These are costs that would be already built into the packaging and distribution of the product itself and which are already assumed as part of the normal course of business.

Request for Comments

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center,

400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) —including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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